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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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WAYNE WALLACE,

Petitioner,

*versus*

F.J. GARRIDO,

Respondent.

CIVIL ACTION NO. 1:20-CV-476

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Petitioner Wayne Wallace, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the petition. The magistrate judge recommends dismissing the petition without prejudice for failure to exhaust administrative remedies.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in light of the pleadings and the applicable law.

Petitioner states the Bureau of Prisons has failed to properly calculate and apply credits he earned by taking a course in recidivism reduction training. He contends he is entitled to credit under 18 U.S.C. § 3632(d)(4)(A). Petitioner states he should not be required to exhaust his administrative remedies because attempting to do so would be futile.

As a general matter, federal prisoners must exhaust administrative remedies before seeking habeas relief under Section 2241. *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994). Exceptions to the exhaustion requirement apply only in “extraordinary circumstances” when administrative

remedies are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be “a patently futile course of action.” *Id.*

Petitioner does not contend he has completed the administrative remedy process that is available to him. While he asserts that completing the process would be futile, he provides no evidence in support of his assertion. He has failed to explain why the Bureau of Prisons would not consider his request for administrative remedy in good faith and correct any error it has made in calculating his sentence. Petitioner’s objections are therefore without merit.

ORDER

Accordingly, petitioner’s objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment shall be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 16th day of April, 2021.

*Marcia A. Crone*

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE